

ZONING BOARD OF APPEALS

June 1, 2011

A regularly scheduled meeting of the Zoning Board of Appeals, of the Town of Trumbull, was held in the Council Chambers of the Trumbull Town Hall on Wednesday, June 1, 2011.

Members Present: Michael Muir, Chairman
David Preusch, Richard Puskar, Joseph Vitrella and alternates
Richard Mayo and Dennis Miko

The following is a brief summary of the meeting. A complete record is on tape, on file in the office of the Zoning Board of Appeals.

A quorum being present, the Chairman called the meeting to order at 7:30 p.m.

In the absence of Commissioner Scarpelli, alternate Richard Mayo was designated as the fifth voting member for tonight's meeting.

PUBLIC HEARING

Application #11-10 – Richard Mawhinney, 166 Porters Hill Road

Variance of Art. I, Sec. 4; Art. II, Sec. 1.2.2.1 and Art. III, Sec. 1 with respect to expanding an existing non-conformity by exceeding the maximum height allowed (15') to 19.8' to construct a storage area above an existing 30'x20' detached garage located 17.2' from the S/S property line.

Richard Mawhinney came forward and indicated that the purpose of the proposed construction was to provide a storage area for his collection of antiques. No plumbing was proposed and the applicant stressed that the area was for storage purposes only.

The Commission suggested that a storage area could be obtained by increasing the footprint of the garage, which would allow the height requirement to be maintained.

Mr. Mawhinney informed that enlarging the garage would intrude into the regulated wetland area. The application approved by the IWWC Commission was for the construction of a second level to the existing garage. He advised further that the proposed plan was also drawn to conform to the character of his historic home.

Application #11-11 – Theodore W. Keifer, 1809 Huntington Turnpike

Pursuant to Art. II, Sec. 1.2.2.1 appeal of Violation Notice from the Zoning Enforcement Officer, dated April 22, 2011 concerning an existing three-car garage, with a second story, exceeding the maximum height allowable (15') by 5.5' (20.5').

The property owners Theodore and Andreina Keifer appeared and detailed the sequence of events that culminated with the issuance of a violation notice by the ZEO.

The garage was constructed in conformance with the historic character of the neighborhood. It replaced the original structure, which had become structurally unsafe. Prior to the issuance of a building permit, construction plans were signed off on by the applicable Town departments, which included a signature from the Town Planner that it met zoning requirements. The applicant stressed that a second story was shown as being part of the approved building plans.

Andreina Keifer commented that the contractor relied on the approvals issued by the Town and the subject notice of violation was generated after construction was completed. The applicant indicated that the structure has now incurred water damage and asked that his appeal be sustained so that he could proceed with the painting.

Letters of support from Michael and Susan Hudzik, 1818 Huntington Turnpike and Dr. and Mrs. Andrew Smith, 1810 Huntington Turnpike were submitted into the record. A copy of the permit issued by the building department was also entered.

Application #11-12 – Christopher D. Gagnon, P.E. Agent for Stanley and Zmir Battat, Lots 1 & 2, as shown on proposed subdivision map dated 5-1-11, with street address of 1487 Huntington Turnpike.

Variance of Art. III, Sec. 1 with respect to insufficient lot area (38,693 sq. ft.) for existing house on Lot 2 and insufficient road frontage (115.3') for Lot 1 to subdivide property.

Christopher Gagnon appeared and reviewed the proposed subdivision plan. He informed that upon approval from ZBA and P&Z, the 1.9 acre parcel would be subdivided into two non-conforming lots and a dwelling constructed on Lot 1.

Mr. Gagnon noted that there are approximately nine properties in the immediate area that are far less conforming than what is before this Board tonight.

Upon inquiry, the applicant's representative indicated that the proposed two-story home would be approximately 2,000 sq. ft. in size and built to conform to the character of the neighborhood.

Inquiry was also made, as to why the proposed new dwelling was situated so far back from the road. Mr. Gagnon responded that this was to avoid infringement into the regulated inland wetland and watercourse area.

Public Comment

Attorney Joel Green spoke in opposition, on behalf of Joe Wagner and Mary Hart, the abutting property owners on the S/S property line. A petition in opposition, signed by a number of area residents, was submitted for the record.

Also entered was a copy of the zoning regulations pertaining to the definition of a zoning hardship and two legal opinions pertinent to this application.

Attorney Green informed that excessive flooding conditions exist on the Wagner/Hart property, which will only intensify, if additional pervious surface is placed. He noted further that no evidence of a hardship has been presented, as required by the zoning regulations.

Application #11-13 – Joseph Guedes, 71 Jerusalem Hill

Variance of Art. III, Sec. 1 with respect to insufficient yard requirements to construct a 25'x30' detached two car garage (existing one-car garage to be removed) 19.4' from the rear property line and 44' from the front property line.

The applicant came forward and offered revised plans to his previous application, which was denied without prejudice by this Board. Mr. Guedes submitted a set of photographs, depicting the extensive amount vegetation existing along the rear property line.

In an effort to address the concerns of the abutting property owner, the applicant has relocated the proposed garage an additional 10' from the rear property line. The Board was advised that moving the garage any further to the front would limit the amount of parking in the driveway to two vehicles. The applicant noted that street parking is not a feasible option, due to the narrowness of Jerusalem Hill Road. Upon inquiry, Mr. Guedes confirmed that the structure does not include a second story and that the height would be 15' to the ridge.

The applicant indicated that he would be agreeable, as a condition of approval, to plant a row of trees along the rear property line to further mitigate any impact to the neighboring property owner.

Public Comment

Marc Hilinski, 59 Jerusalem Hill and Victor Spigarolo, 83 Jerusalem Hill, spoke in favor commenting that replacing the existing garage would improve the appearance of this property and the neighborhood, as well. They added that a location any closer to the road would not conform to the character with the neighborhood.

Ann and Terrance Bussen, 78 Hilltop Drive, the abutting neighbors to the rear, spoke in opposition. Two letters, one from the Bussens outlining their concerns and the other from their counsel, Attorney Joel Green were submitted for the record. Mr. and Mrs. Bussen advised that they fully intend to utilize the rear portion of their property at some point; therefore, the proposed structure still remains to close to their property line. They

commented further that the applicant has failed again to identify the existence of a hardship.

Application #11-14 – Brennan and Johanna Fraczek, 16 Woodcrest Avenue

Variance of Art. I, Sec. 4 and Art. III, Sec. 1 with respect to insufficient yard requirements to expand an existing non-conformity to construct a porch 21' from the front property line (including stairs) in conjunction with a rear addition.

Mr. Fraczek was the presenter. The proposed plan indicated a 200'x200' second story addition, which would raise the roofline an additional 3' adding volume to the existing non-conformity. Rear and side setbacks were in conformance. The applicant advised that the proposed porch construction would lessen the roof pitch. Construction of the front steps would increase the front setback non-conformity to 21 feet.

The applicant was asked if the steps could be situated on the side of the porch, to reduce the impact to the front yard. Mr. Fraczek replied that this option would not blend architecturally with the home's design.

Public Comment

Carmine DeFao of 15 Woodcrest Avenue spoke in favor commenting that the proposal conforms to the character of the neighborhood.

A letter of support submitted by William and Karen Vechiola, 14 Woodcrest Avenue, was also noted for the record.

Application #11-15 – Seth O'Brian, 20 Bailey Street

Variance of Art. III, Sec. 1 with respect to insufficient yard requirements to construct a 21'x24' deck (existing deck to be removed) 12.4' from the W/S property line at its closest point.

Bret O'Brian appeared representing the applicant. The proposal was to replace the original split deck, which has collapsed, with the submitted plan. Mr. O'Brian informed that the proposed deck is low, constructed approximately 30 inches off the ground and in line with the house. The submitted plan indicated the deck to be slightly smaller in size than the original structure.

Application #11-16 – 50 Corporate Drive Trumbull, LLC, 50 Corporate Drive

Variance of Art. II, Sec. 4.2.5(d) with respect to insufficient yard requirements to construct a one-story 93,046 sq. ft. industrial building 76' from the front property line at its closest point.

Attorney Raymond Rizio represented the developer, Robert D. Scinto. The Board was advised that the recently purchased property has been vacant for approximately 20 years. The developer proposes to construct a warehouse on this 6.5 acre parcel. Mr. Rizio informed that the hardship requirement has been satisfied due to the property having three sides of rounded road frontage. Other than the required front setbacks, the proposal is fully compliant. The applicant's representative commented that there are no negative effects to this application and that the parcel does not abut any residential area. A site plan and photographs, of 75 Corporate Drive indicating similar front setbacks, were submitted for the record.

Rob Scinto came forward and presented renderings of the proposed structure and spoke to its architectural design.

Public Comment

Deborah Cox, Director of Economic Development, spoke in favor and submitted a letter of support from the Economic Development Commission.

First Selectman Herbst spoke in support of this application and the upcoming Application #11-17. He stressed the importance of growing the Town's grand list to maintain town services and lower tax rates for the citizens of Trumbull.

Application #11-17 – Digital 60 & 80 Merritt, LLC, 60-80 Merritt Boulevard

Variance of Art. II, Sec. 4.3.5.9(b),(d); Sec. 4.3.6(a) with respect to insufficient street setback requirements (24' Nutmeg Drive), (76' Merritt Boulevard); increasing maximum building coverage (33.3%) to 37% and reducing required number of parking spaces (384) to 213 to construct a 70,073 sq. ft. addition to an existing industrial building.

The applicant's representative, Attorney Raymond Rizio came forward and introduced Walter Greaney of Digital Realty Trust who spoke to the company and the proposed data processing center project.

Attorney Rizio informed that the site had been previously approved for a much larger addition. Except for the front setback, there is now an overall reduction in the non-conformity of the prior application. A packet of information concerning the property and the previously approved proposal, along with photographs of the site, were submitted into the record. Mr. Rizio described the lot as long and narrow, thereby satisfying the hardship requirement. The request to vary the mandatory number of parking spaces was considered appropriate, as the parking lot is virtually empty with only 27 employees on site and little traffic being generated from this type of operation. Mr. Rizio drew the Commission's attention to a traffic and parking demand assessment conducted on a similar facility in Massachusetts. Based on this report the property requires approximately 60 parking spaces where the applicant proposes 213.

Attorney Rizio concluded that almost every building in this industrial area has needed some sort of variance of the 100 ft. setback requirement. The proposal replaces a vacant area with a productive business and reduces the approved non-conformity except for a small increase to the front setback requirement.

Public Comment

John Henshaw of 26 Round Hill Road commented that some his customer base have established their data center operations at this location and that the property was ideal for this type of use. Mr. Henshaw added that the addition to this facility will only benefit the Town.

Deborah Cox, Director of Economic Development, spoke in favor and submitted a letter of support from the Economic Development Commission.

Application #11-18 – Tina Cronin, 90 Stonehouse Road

Variance of Art. I, Sec. 4 and Art. III, Sec. 1 with respect to expanding an existing non-conforming use to construct an addition over the footprint of a dwelling located 5' from the E/S property line.

Robert Tobin, the project architect, appeared representing the applicant. A letter of support from Bailey and Marshall Marcus of 91 Stonehouse Road and renderings of the proposed architectural design were submitted into the record.

The proposed project re-frames the existing 1 ½ story split level home into a full colonial design. The first floor would be expanded to enlarge the kitchen and create a mud room. Other than the eastside's 5' setback the structure conforms to all other location requirements. The addition will be constructed over the existing footprint, with the non-conformity being increased with the raising of the roof.

Mr. Tobin noted that the non-conformity has existed since the building's construction approximately 60 years ago.

This concluded the Public Hearing.

REGULAR MEETING

Tonight's applications were considered and the Commission took action was follows.

Application #11-10 – Richard Mawhinney, 166 Porters Hill Road

MOTION MADE (Vitrella) and seconded (Puskar) to approve Application #11-10.

Vote: In Favor: (0) – Opposed (5): Muir, Mayo, Preusch, Puskar, Vitrella MOTION DOES NOT CARRY

Application #11-10 - UNANIMOUSLY DENIED

It was determined that no evidence of hardship had been presented to justify varying the garage height requirement. The Commission further noted that other viable storage alternatives are available; specifically, the construction of a shed or enlarging the footprint of the existing garage.

Application #11-11 – Theodore W. Keifer, 1809 Huntington Turnpike

MOTION MADE (Vitrella) and seconded (Preusch) to sustain the appeal for Application #11-11.

MOTION MADE (Puskar) and seconded (Vitrella) to amend the original motion to include the following specific stipulation.

1. Second story of the existing garage shall be limited to storage only. No insulation, sheetrock or plumbing to be permitted.

Vote: In Favor (5): Muir, Mayo, Preusch, Puskar, Vitrella MOTION CARRIED

Vote (Original Motion, as Amended): - Unanimous – MOTION CARRIES

Application #11-11 – APPEAL SUSTAINED AS STIPULATED

Application #11-12 – Christopher D. Gagnon, P.E. Agent for Stanley and Zmir Battat, 1487 Huntington Turnpike

MOTION MADE (Vitrella) and seconded (Puskar) to approve Application #11-12.

Vote: In Favor (0) – Opposed (5): Muir, Mayo, Preusch, Puskar, Vitrella MOTION DOES NOT CARRY

Application #11-12 – UNANIMOUSLY DENIED

The Commission determined that no evidence of a hardship has been identified.

Application #11-13 – Joseph Guedes, 71 Jerusalem Hill

MOTION MADE (Puskar) and seconded (Vitrella) to approve Application #11-13.

MOTION MADE (Vitrella), seconded (Puskar) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella), to amend the original motion to approve Application #11-13 subject to the following specific condition.

1. To screen the garage from the abutting neighbor, a row of trees shall be planted along the rear property line, as per the recommendation of the Town Tree Warden.

Vote (Original Motion, as Amended): Unanimous – MOTION CARRIES

Application #11-13 – UNANIMOUSLY APPROVED, AS AMENDED

It was noted for the record that the lot is not deep enough to construct the garage anywhere on the property without a variance. Also moving the garage any closer to the road would significantly reduce the ability to park in the driveway.

Application #11-14 – Brennan and Johanna Fraczek, 16 Woodcrest Avenue

MOTION MADE (Puskar), seconded (Vitrella) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella), to approve Application #11-14, as presented and plans submitted.

Application #11-14 - UNANIMOUSLY APPROVED

The Commission found the proposed construction to be in character with the neighborhood and a minor deviation to an existing non-conformity.

Application #11-15 – Seth O'Brien, 20 Bailey Street

MOTION MADE (Vitrella), seconded (Puskar) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella), to approve Application #11-15, as presented and plans submitted.

Application #11-15 - UNANIMOUSLY APPROVED

The proposed construction was consistent with the existing deck and the houseline.

Application #11-16 – 50 Corporate Drive Trumbull, LLC, 50 Corporate Drive

MOTION MADE (Vitrella), seconded (Puskar) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella,) to approve Application #11-16, as presented and plans submitted.

Application #11-16 - UNANIMOUSLY APPROVED

Adequate evidence of a hardship has been established. There is ample room on the site to support the proposed development.

Application #11-17 – Digital 60 & 80 Merritt, LLC, 60-80 Merritt Boulevard

MOTION MADE (Vitrella), seconded (Mayo) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella), to approve Application #11-17, as presented and plans submitted.

Application #11-17 - UNANIMOUSLY APPROVED

The proposal was deemed to be a minor change to a previously approved variance.

Application #11-18 – Tina Cronin, 90 Stonehouse Road

MOTION MADE (Vitrella), seconded (Puskar) and unanimously carried (Muir, Mayo, Preusch, Puskar, Vitrella), to approve Application #11-18, as presented and plans submitted.

Application #11-18 - UNANIMOUSLY APPROVED

Determined to be a minor deviation to a long standing non-conformity.

There being no further business to discuss, a motion was made by Commissioner Vitrella and seconded by Commissioner (Puskar) to adjourn. The June 1, 2011 meeting of the Zoning Board of Appeals adjourned at 10:15 p.m. with unanimous consent.

Respectfully submitted,

Helen Granskog
Clerk of the Zoning Board of Appeals

